

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARYANN MALTESE,

Plaintiff,

-against-

CARL HEASTIE, NYS LEGISLATIVE REP;
KATHY HOCHUL, GOVERNOR;
RICHARD SCHAFFER SUPERVISOR
(CEO) + CHAIR NYS DEMOCRATS
PARTY; FRANK WU, QUEENS COLLEGE
CUNY PRESIDENT,

Defendants.

24-CV-6899 (LTS)

TRANSFER ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

Plaintiff, a resident of Suffolk County, New York, brings this *pro se* action under the Court's federal question jurisdiction, alleging that Defendants violated her federally protected rights in Albany, New York. Named as Defendants are Carl Heastie; Kathy Hochul; Richard Schaffer; and Frank Wu.

For the following reasons, the Court transfers this action under 28 U.S.C. § 1406 to the United States District Court for the Northern District of New York.

DISCUSSION

Under 28 U.S.C. § 1391(b), a civil action may be brought in

(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located; (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or (3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

Under Section 1391(c), a "natural person" resides in the district where the person is domiciled, and an "entity with the capacity to sue and be sued" resides in any judicial district

where it is subject to personal jurisdiction with respect to the civil action in question. *See* 28 U.S.C. § 1391(c)(1), (2).

Plaintiff alleges that Defendants violated her rights in Albany, located in Albany County, New York. (ECF 1 ¶ III.) Plaintiff provides work addresses in Albany for Defendants Hochul and Heastie, in Suffolk County for Defendant Schaffer, and in Queens County for Defendant Wu. She does not plead the residence of any of the defendants, only asserting that the alleged events giving rise to her claims occurred in Albany, New York. Defendants are employed in Albany County, Suffolk County, and the alleged events occurred in Albany. From the face of the complaint, therefore, it is clear that venue is not proper in this Court under Section 1391(b)(1), (2).¹

Under 28 U.S.C. § 1406, if a plaintiff files a case in the wrong venue, the Court “shall dismiss, or if it be in the interest of justice, transfer such case to any district or division in which it could have been brought.” 28 U.S.C. § 1406(a). Plaintiff’s claims arose in Albany County, which is in the Northern District of New York. *See* 28 U.S.C. § 112(a). Accordingly, venue lies in the Northern District of New York, 28 U.S.C. § 1391(b)(2), and in the interest of justice, the Court transfers this action to the United States District Court for the Northern District of New York, 28 U.S.C. § 1406(a).

CONCLUSION

The Clerk of Court is directed to transfer this action to the United States District Court for the Northern District of New York. Whether Plaintiff should be permitted to proceed further

¹ The judicial district for this court, the Southern District of New York, is comprised of the following New York State counties: (1) New York (New York City Borough of Manhattan); (2) Bronx (New York City Borough of the Bronx); (3) Westchester; (4) Dutchess; (5) Rockland; (6) Orange; (7) Putnam; and (8) Sullivan. *See* 28 U.S.C. § 112(b).

without prepayment of fees is a determination to be made by the transferee court. A summons shall not issue from this Court. This order closes this case.

The Court certifies, pursuant to 28 U.S.C § 1915(a)(3), that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: September 13, 2024
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge